

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

11 DARIUS MILLER and DARA MILLER,) No. C-11-01175 PJH
12 Plaintiffs,) STIPULATION AND [PROPOSED]
13 v.) ORDER RE: EXTENDING TIME
14 SECURITY LIFE OF DENVER INSURANCE) FOR DISCOVERY DEADLINES
15 COMPANY, a Colorado corporation; ING)
16 AMERICA EQUITIES INC., a Colorado)
17 corporation; SOUTHLAND LIFE INSURANCE)
18 COMPANY, a Texas corporation, and DOES 1)
through 50, inclusive,)
Defendants.)

19 Pursuant to Civil Local Rule 6-2, plaintiffs Darius Miller and Dara Miller
20 ("plaintiffs") and defendants Security Life of Denver Insurance Company and ING America
21 Equities, Inc. ("defendants"), through their respective counsel, submit the following stipulation
22 and proposed order re: extending time for discovery deadlines.

23 WHEREAS, on July 8, 2011 the Court issued a Case Management and Pretrial
24 Order setting a Non-Expert Discovery Cutoff on December 30, 2011, Disclosure of Experts on
25 January 4, 2012, and Expert Discovery Cutoff of February 15, 2012; and

26 WHEREAS, the Court also referred the matter to private mediation to be completed
27 within 150 days; and

WHEREAS, on August 26, 2011 defendants filed a Third-Party Complaint against Third-Party Defendants Aviva Life and Annuity Company (“Aviva”), and George W. Shaeffer (“Shaeffer”); and

WHEREAS, on October 7, 2011, Entry of Default as to Shaeffer was entered; and

WHEREAS, on October 24, 2011, Aviva filed a Motion to Dismiss, set for hearing on December 14, 2011; and

WHEREAS, on October 31, 2011, Aviva declined defendants' request that it participate in the mediation, asserting that "the Third Party Complaint was filed against AVIVA on August 26, 2011, after entry of a court order requiring mediation;" and

WHEREAS, on November 11, 2011, plaintiffs and defendants held a mediation before the Hon. Ronald M. Sabraw (Ret.); and

WHEREAS, plaintiffs and defendants believe that the presence of all plaintiffs, defendants, and third-party defendants – including Aviva – would materially assist in a resolution of this case; and

WHEREAS, to obtain Aviva's participation, plaintiffs and defendants agreed to a subsequent mediation before the Hon. Ronald M. Sabraw (Ret.) on the earliest available, mutually agreeable, date in January 2012; and

WHEREAS, upon the resolution of Aviva's December 14, 2011 motion to dismiss, defendants will request the Court to order the participation of Aviva in the mediation; and

WHEREAS, Aviva has refused to stipulate or agree to participate in mediation; and

WHEREAS, plaintiffs and defendants desire the mediation to occur prior to the parties incurring costs associated with completing all depositions and designating experts; and

WHEREAS, plaintiffs and defendants agree that an extension of the deadlines for discovery cutoff dates and expert designation dates would facilitate settlement, and would not require a modification of the schedule for the case; and

1 NOW, THEREFORE, plaintiffs and defendants, through their respective counsel of
2 record, hereby stipulate and jointly request that the Court enter an Order as follows:

3 1. That the Non-Expert Discovery Cutoff be moved to February 29, 2012; and
4 2. That the Disclosure of Experts be moved to March 7, 2012; and
5 3. That the Expert Discovery Cutoff be moved to April 15, 2012; and

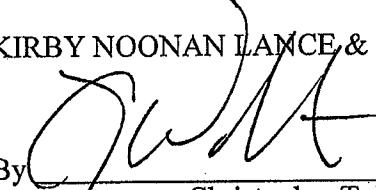
6 SO STIPULATED, THAT THE DISCOVERY DATES SHALL BE EXTENDED
7 AS SET FORTH ABOVE.

8 DATED: December 8, 2011

9 BARTKO, ZANKEL, TARRANT & MILLER
10 A Professional Corporation

11 By 
12 Brian P. Villarreal
13 Attorneys for Plaintiffs
14 DARIUS MILLER and DARA MILLER

15 DATED: December 8, 2011

16 KIRBY NOONAN LANCE & HOGE LLP
17 
18 By Christopher T. Wright
19 Attorneys for Defendants/Third-Party Plaintiffs
20 SECURITY LIFE OF DENVER INSURANCE
21 COMPANY and ING AMERICA EQUITIES, INC.

22 Pursuant to Stipulation, IT IS SO ORDERED:
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24 DATED: December 12, 2011

